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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 TERRY STATEN,

12 Plaintiff,

13 v.

14 ASTELLAS PHARMA US, INC., et al.,

15 Defendants.
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Case No. 2:23-cv-01898-FLA (PVCx)

**ORDER DISMISSING ACTION FOR
LACK OF SUBJECT MATTER
JURISDICTION**

18 **RULING**

19 On March 14, 2023, Plaintiff Terry Staten (“Plaintiff”) initiated this action
20 against Defendants Astellas Pharma US, Inc. and Seagen, Inc. (collectively,
21 “Defendants”). Dkt. 1 (“Compl.”). The Complaint alleges four causes of action for
22 strict liability failure to warn, negligent failure to warn, fraud, and negligent
23 misrepresentation, in connection with a prescription drug. *Id.* Plaintiff alleges the
24 court has subject matter jurisdiction under 28 U.S.C. § 1332 because the amount in
25 controversy exceeds \$75,000. *Id.* at 2.

26 On July 27, 2023, the court ordered the parties to show cause why the action
27 should not be dismissed for lack of subject matter jurisdiction. Dkt. 37. Plaintiff and
28 Defendants filed responses. Dkts. 40, 41, 43.

1 Having reviewed the Complaint and the responses to this court's Order to Show
 2 Cause, and for the following reasons, the court finds Plaintiff fails to establish subject
 3 matter jurisdiction and accordingly DISMISSES the action.

4 DISCUSSION

5 Federal courts are courts of "limited jurisdiction," possessing "only that power
 6 authorized by the Constitution and statute[.]" *Kokkonen v. Guardian Life Ins. Co. of*
 7 *Am.*, 511 U.S. 375, 377 (1994); U.S. Const. art. III, § 2, cl. 1. District courts are
 8 presumed to lack jurisdiction unless the contrary appears affirmatively from the
 9 record. *See DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n. 3 (2006).

10 Additionally, federal courts have an obligation to examine jurisdiction *sua sponte*
 11 before proceeding to the merits of a case. *See Ruhrgas AG v. Marathon Oil Co.*, 526
 12 U.S. 574, 583 (1999).

13 Federal courts have jurisdiction where an action arises under federal law or
 14 where each plaintiff's citizenship is diverse from each defendant's citizenship and the
 15 amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C.
 16 §§ 1331, 1332(a). A complaint filed in federal court must contain "a plausible
 17 allegation that the amount in controversy exceeds the jurisdictional threshold." *Dart*
 18 *Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81, 89 (2014). Where a party
 19 contests, or the court questions, a party's allegations concerning the amount in
 20 controversy, both sides shall submit proof, and the court must decide whether the
 21 party asserting jurisdiction has proven the amount in controversy by a preponderance
 22 of the evidence. *Id.* at 88–89; *see* Fed. R. Civ. P. 12(h)(3) ("If the court determines at
 23 any time that it lacks subject-matter jurisdiction, the court must dismiss the action.").

24 **A. Actual Damages**

25 Here, the amount of damages Plaintiff seeks cannot be determined from the
 26 Complaint, as it does not set forth a specific amount. *See generally* Compl. Plaintiff,
 27 however, contends in his response to the court's OSC that the amount in controversy
 28 exceeds \$75,000, upon information and belief. Dkt. 41 at 3. Plaintiff provides no

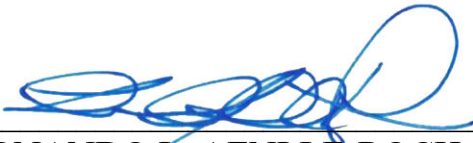
1 information or evidence to substantiate this assertion, despite the court's notice of a
2 "two-pronged inquiry into the facial and factual sufficiency of Plaintiff's
3 demonstration of jurisdiction." *See* Dkt. 37 at 3. Instead, Plaintiff asks the court to
4 accept his statement regarding the amount in controversy as true. By failing to present
5 any evidence to support a reasonable estimate of the amount in controversy, Plaintiff
6 fails to demonstrate by a preponderance of the evidence that the jurisdictional
7 minimum is met.

8 CONCLUSION

9 The court determines Plaintiff has failed to demonstrate the amount in
10 controversy exceeds \$75,000 and finds that diversity jurisdiction does not exist. The
11 court, therefore, DISMISSES the action without prejudice. All dates and deadlines in
12 this court are VACATED. Defendants' Motion to Dismiss and/or Strike Plaintiff's
13 Complaint (Dkt. 26) is DENIED as MOOT. The clerk of the court shall close the
14 action administratively.

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16 IT IS SO ORDERED.

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18 Dated: August 24, 2023

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21 FERNANDO L. AENLLE-ROCHA
22 United States District Judge
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